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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/768,975      | 01/30/2004  | . Shohei Chida       | 3335-00012          | 4526             |

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EXAMINER

SORKIN, DAVID L

ART UNIT PAPER NUMBER

1723

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

8

**Office Action Summary**

Application No.

10/768,975

Applicant(s)

CHIDA ET AL.

Examiner

David L. Sorkin

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group II, claims 3-20, in the reply filed on 19 December 2005 is acknowledged.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 3, 6 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 3, there is lack of antecedent basis for "the carrying step" and "the solidifying material adding step". Apparatus claims must not require steps. Claim 6, which depends from claim 4, repeats many of the structural elements recited in claim 4. It must be made clear whether an additional set of these items is being recited, and if so distinction must be made and maintained between the two sets. For example, in claim 8, it is unclear if "the mixing pipe passage" refers to the mixing pipe passage of claim 4 or the mixing pipe passage of claim 6.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 3-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartung et al. (US 4,322,168). Regarding claim 3, Hartung ('168) discloses an apparatus comprising means (56) for adding water content; structure (42) for carrying; structure (50,44,46) for adding and mixing solidifying material; and structure (58) for adding lightening material. Regarding claim 4, Hartung ('168) discloses a pipe-type mixer apparatus comprising a mixing pipe (42) having an upstream supply portion and a downstream discharge portion; a shaft mixer (38) coaxially located within the mixing pipe passage; a screw vane (44) and an agitating blade (46) arranged in parallel in the order from an upstream side on the outer surface of the shaft member; a rotating driving means (36) of the shaft member; and a second fluid material supplying port (56) arranged in a corresponding position to the agitating blade in the shaft member.

6. Claims 4-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Owen (US 1,753,716). Owen ('716) discloses a pipe-type mixer apparatus comprising a mixing pipe (3) having an upstream supply portion and a downstream discharge portion; a shaft mixer (9) coaxially located within the mixing pipe passage; a screw vane (12) and an agitating blade (13) arranged in parallel in the order from an upstream side on the outer surface of the shaft member; a rotating driving means (10) of the shaft member; and a second fluid material supplying port (14) arranged in a corresponding position to the agitating blade in the shaft member.

7. Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Fullington et al. (US 4,099,005). Regarding claim 15, Fullington ('005) discloses an apparatus comprising means (22) for dropping and supplying material; means (20,

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including 30) for supplying a liquid cascade; and means (12) for agitating and mixing.

Regarding claim 16, Fullington ('005) discloses an apparatus comprising means (22) for dropping and supplying material; means (20, including 30) for swirling and dropping liquid; and means (12) for agitating and mixing.

8. Claims 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kempf et al. (US 5,360,118). Kempf ('118) discloses a gravity adjusting apparatus comprising a tank (14); a volume measuring means (see col. 5, line 1); a weight measuring means (see col. 4 line 64 to col. 5 line 4); a gravity measuring means (19) for determining a gravity on the basis of results of the volume measuring means and weight measuring means; a water adding means (18) and a water discharging means (34).


### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David L. Sorkin  
Primary Examiner  
Art Unit 1723

DLS